

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:09CV162-MU-02
APPELLATE NO. 09-6888

WILLIE JAMES WHITE,
Petitioner,

v.

LYNN SUMMERS,
Respondent.

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ORDER

THIS MATTER comes before the Court on Petitioner's "Motion and Affidavit for Permission to Appeal In Forma Pauperis," filed May 26, 2009 (document # 6)

The record reflects that Petitioner has proceeded to the Fourth Circuit Court of Appeals for an appeal of this Court's Order summarily dismissing his Petition under 28 U.S.C. § 2254. By the instant Motion, Petitioner is seeking to proceed without having to pay costs, particularly the \$455.00 filing fee, which is associated with that action.

Petitioner is incarcerated and his IFP Motion reports that he has no financial resources from any source. Notably, however, Petitioner has failed to provide the Court with a certified copy of his inmate trust account statement as is required for such Motions. Due to that failure, the Court does not have the necessary information with which to verify that Petitioner, in fact, does not have sufficient resources from which to pay the required filing

fee. Therefore, the instant IFP Motion will be denied.

NOW, THEREFORE, IT IS ORDERED that:

1. Petitioner's Motion and Affidavit for Permission to Appeal In Forma Pauperis is **DENIED** without prejudice to his right to file a new application with a certified copy of his inmate trust account statement attached thereto.

2. Petitioner may, in the alternative, elect to remit the \$455.00 filing fee for this action.

3. Within thirty (30) days of the date of this Order, Petitioner either must remit the applicable filing fee or file a new application with the required statement. **Failure to respond as herein directed could result in the dismissal of Petitioner's appeal.**

4. The Clerk of this Court is directed to send copies of this Order to Petitioner and to the Clerk of the Fourth Circuit Court of Appeals.

SO ORDERED.

Signed: May 28, 2009



Graham C. Mullen
United States District Judge

